

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

Crim. No. 11-89 (RHK/LIB)
ORDER

v.

Jerilee Jane Head,

Defendant.

Following the charge conference and arguments of counsel, the Court has modified its proposed jury instructions as follows: (1) it has deleted the reference to stipulated facts in Instruction No. 2 and (2) it has deleted the sentence “Accordingly, you must consider element One as proven” in Instruction No. 6.

The Court declines Defendant’s invitation to use the phrase “discharge of a firearm in furtherance of a crime of violence, to-wit, manslaughter” in elements One and Two of Instruction No. 6. The Court believes that such an instruction will only serve to confuse the jury. Furthermore, there is no dispute under the facts here as to (1) the precise nature of the “crime of violence” to which Clark has pleaded guilty (namely, the killing of Julian Keith DeMarris), which in any event is a legal determination for the Court, and (2) the manner in which that “crime of violence” was furthered (namely, by discharging a firearm, *i.e.*, a shooting). Hence, in the Court’s view, instructing the jury that the

underlying crime was “shooting Julian Keith DeMarris on November 3, 2010” conveys the same information – tailored to the specific evidence in this case – as “discharging a firearm in furtherance of a crime of violence,” but in a clearer, less-confusing fashion.

Dated: January 23, 2012

s/Richard H. Kyle

RICHARD H. KYLE

United States District Judge